

AT A MEETING OF THE MONTGOMERY COUNTY PLANNING COMMISSION ON June 8, 2011 IN THE BOARD ROOM, SECOND FLOOR, COUNTY GOVERNMENT CENTER, CHRISTIANSBURG, VIRGINIA:

**CALL TO ORDER:**

Mr. Rice, Chair called the meeting to order.

**DETERMINATION OF A QUORUM:**

Mr. Thum established the presence of a quorum.

Present: Bryan Rice, Chair  
Ryan Thum, Secretary  
Joel Donahue, Member  
Malvin Wells, Member  
Frank Lau, Member  
John Tuttle, Member  
John Muffo, Board of Supervisors Liaison  
Robert Miller, Member  
Walt Haynes, Vice-Chair  
Mary Biggs, Board of Supervisors Liaison Alternate (arrived @ 8:15pm)  
Steve Sandy, Planning Director  
Dari Jenkins, Planning & Zoning Administrator  
Jamie MacLean, Development Planner  
Brea Hopkins, Planning & Zoning Technician

Absent:  
William Seitz, Member

**APPROVAL OF AGENDA:**

On a motion by Mr. Miller, seconded by Mr. Haynes, and unanimously carried the agenda was approved.

**CONSENT AGENDA:**

On a motion by Mr. Miller, seconded by Mr. Haynes, and unanimously carried the consent agenda was approved.

**PUBLIC ADDRESS:**

Mr. Rice opened public address; however, there being no speakers the public address was closed.

**PUBLIC HEARING:**

Request by Randall W. Slusser and Virginia D. Slusser for a Special Use Permit on 5.023 acres in an Agriculture (A-1) zoning district to allow for one additional lot assignment than the total permitted by the sliding scale for the purpose of allowing a family subdivision. The property is located at 4840 Natures Way Road and is identified as Tax Parcel No. 19-3-12 (Acct # 016766) in the Mount Tabor Magisterial District (District A). The property currently lies in an area designated as Resource Stewardship in the 2025 Comprehensive Plan.

Mr. Rice introduced the request.

Mr. Sandy stated explained the request and reviewed the maps showing the location of the property. The property lies within an area designated as resource stewardship in the comprehensive plan. In 2003 the applicant divided a 23 acre parcel was divided into two smaller tracts. He reviewed the parcel history since the original subdivision. The 5 acre parcel only has one lot assignment and therefore cannot be subdivision. A land owner with several contiguous parcels can share lot assignments; however, that is not feasible. Not many of these

requests have been made in the past. A few phone calls have been made regarding the request. One adjoining owner informed staff there is a deed restriction that would prohibit the 5.023 acre parcel from being further subdivided. The county does not enforce private covenants; however, there is concern with approving something that is in contradiction to the covenants. The county attorney has agreed with that concern; therefore, staff is recommending denial.

Mr. Wells are there other alternatives, such as removing the restriction from the deed, etc.

Mr. Sandy unsure of the covenant policies for revising such restrictions.

Mr. Rice we should not consider it because it requires us to change our rules. Everyone else has to follow the rules so why should we amend the rule.

Mr. Donahue need to support and respect deed restrictions. It would be appropriate for the owner to retract the request.

Mr. Thum not amending the rules because the owner has requested the sup and the ordinance allows that.

Mr. Rice opened the public hearing.

There being no further comments, the public hearing was closed.

Thum The property is appropriate for the proposed division. The deed restriction is a private agreement and is not enforceable by the board. This still can't happen until the deed is revised but this board needs to consider the suitability.

Lau not our position to enforce covenants. The two are relevant; however, the homeowners should not use the county to enforce their rules. Proceed with the best course of action. If the adjoining owner thinks its incorrect, up to them to take it to court.

Haynes county attorney and staff are recommending denial. Need to support that for legality reasons. It is up to the homeowner to change the rules. If covenants were established, they were there for a reason.

Mr. Rice allowed to ask for that exception but no reason has been given to grant the request.

Mr. Thum this public board should not get into the habit of enforcing deed restrictions. Not our job to examine and interpret and enforce deed restrictions.

On motion by Mr. Thum approve staff report recommendations with conditions, second by Mr. Wells FAILED 5-3

Ayes: Thum, Wells, Lau

Nayes: Miller, Tuttle, Haynes, Rice, Donahue

Motion to Deny Thum/Haynes 5-3

Ayes: Miller, Tuttle, Haynes, Rice, Donahue

Nay: thum, Wells, Lau

An Ordinance Amending Chapter 10, Entitled Zoning, Sections 10-25, 10-26, 10-27, 10-33, 10-35 and 10-36 of the Code of the County of Montgomery, Virginia by Adding Land Located in the Urban Development Areas to the List of Qualifying Lands in the Residential R-2, R-3, RM-1 Districts, in the Planned Industrial (PIN), Planned Unit Development (PUD) and the Planned Mobile Home Residential Park (PMR) Districts and Section 10-61 of the Code of the County of Montgomery, Virginia, By Adding and/or Modifying the Definitions of the Following Terms: Alley, Financial Services, Green, Natural Area/Preserve, Park and Square/Plaza.

Mr. Rice introduced the request.

Mr. Sandy stated the ordinance amendments proposed are based on the UDA being a new designation in the comprehensive plan. The terminology used in the TND districts also requires some definitions to be amended or added. He reviewed the definitions proposed.

Mr. Rice opened the public hearing; however, there being no comments, Mr. Rice closed the public hearing.

On a motion by Mr. Miller, seconded by Mr. Wells and carried by a 8-0 vote

### **OLD BUSINESS:**

An ordinance amending Chapter 10, entitled Zoning, Section 10-52 (3) (b) of the Code of the County of Montgomery, Virginia, by deleting the requirement that a person applying to the Board of Supervisors, Planning Commission or Board of Zoning Appeals on a planning or zoning matter shall post a placard notice notifying the public of the place and time of a public hearing regarding the property.

On a motion by Mr. Haynes, seconded by Mr. Miller and carried unanimously the Planning Commission removed the request from the table for discussion.

Ms. Jenkins stated proposed amendments regarding the placard notice requirements have been drafted. The Code of VA does not allow the locality to require the applicant to post the placard. The proposed Revisions to Section 10-52(3)(a) is based upon recommendations from the last meeting:

1. Posting of the required placard(s) by staff.
2. Posting to be completed no less than five (5) days prior to the first public hearing.
3. Staff documentation of the posted placard(s) by digital photograph.
4. Staff will attempt to reinstall the placard(s) if notified of a damaged or missing placard.
5. Staff to remove the placard(s) within 15 days following a decision regarding the application.

Mr. Thum asked if the applicant should be liable for removing the placard instead of staff.

Ms. Jenkins stated she was not sure that they could be required to remove it.

Mr. Haynes give a refund if brought back.

Mr. Rice wanted to ensure the sign was placed on property and there were not legal issues with it being remove/destroyed.

Mr. Miller do not like additional staff responsibilities. Would like that they consider fees to the placard notice. It should not be upon the tax payers to cover the costs of the placard and of staff time.

Mr. Sandy a separate amendment to the fee schedule would have to be proposed.

Mr. Miller/Wells 8-0 vote.

### **NEW BUSINESS:**

Walnut Creek "The Preserve Phase III Major Preliminary and Final Subdivision Approval

Mr. Sandy stated Walnut Creek was rezoned in 2005. The Phase V plat has been submitted for approval. It will include 13 lots. Staff reviewed the plat for compliance with proffers and subdivision ordinance. E&S, VDOT, Water and sewer approvals have been received. The plat is ready for preliminary and final approval.

Well/Thum 8-0 Motion to approve prelim and final plat and authorize chair signature

### **WORKSESSION:**

Haynes/Miller all enter worksession

Lafayette Area Plan

Mr. Sandy stated the Lafayette Route 11/460 Corridor Plan is the final small area plan that will be encompassed in the UDA grant application. A public meeting was held at the fire station with citizens to gather comments regarding the area. Look at this area because of N Fork Road improvements, sell of Elliston Elementary, intermodal possibility and potential impacts. The deadline for completion is Sept. 30<sup>th</sup>.

Vlad Gavrilovic, met with county staff and the public. Discussed goals to plan ahead by developing a long range plan for the corridor. Discussed how the plana would relate to the village plan, vitl plan, etc.

Bill discussed transportation opportunities and impacts. Plant to build upon prior studies, 603 planning analysis, VITL, DRPT studies, and comp plan. Will consider various growth scenarios, multimodal considerations.

Milt Herd, discussed existing conditions and issues facing the area such as the intermodal facility, roadway character, development, etc.

Mr. Miller has the pedestrian trails been discuss especially near the rail road trussle.

Vlad can look at that; however, the citizens were stating they did not want trails due to safety concerns with the railroad location. They felt it was not compatible with the industrial uses. Wanted the greenway along the river to be maintained.

Milt concerned about the visual impacts of the facility and would like buffers.

Mr. lau need to consider bike and pedestrian trails because there will be more users as the motorized prices climb.

Vlad stated he was in agreement with Mr. Lau and perhaps he could show that bikes, cars, and pedestrian traffic could co-exist safely.

Mr. Sandy also stated that the context of the comments against trails was because property owners were focusing on jobs in lieu of trails, and not necessarily that the trails were not a good idea. But rather they would like to have the priority focus on jobs. Mr. Sandy also stated that a trail along 460 could provide a way to connect the two valleys together. And do a greenway along the river for a more recreational purpose.

Mr. Miller stated that there are issues of mind set and education that could make a huge difference. We need to focus on educating ourselves and our neighbors on ways to allow pedestrians, bikes, and motorized vehicles to coexist.

Mr. Wells said that currently the Lafayette area is not currently safe for bikes, and pedestrians. However, perhaps people are focusing on what is currently, and not what could be in the future. Mr. Wells thinks it can be made safe and we should work towards that goal.

Mr. Donahue stated that the pedestrian areas will be used by adolescents and pre-drivers, not necessarily those who may attend these sorts of meetings. Likely that if it is built, it will be used by younger children to safely cross areas.

Vlad also stated that one of the desired uses for the areas was grocery store, retail, industrial. There was not a lot of discussion of adding residential—other than adding more high quality, affordable housing.

Mr. Thum stated that it would be difficult to make the Lafayette are safe at the current speed limit. If the speed limit was reduced to 45 there would be a possibility to stop for pedestrian traffic safely. Because if you are traveling at 55 or 60 miles per hour it is difficult to stop for pedestrians safely.

Vlad stated that public comment indicated that the area would likely be industrial whether or not the intermodal facility was built.

Mr. Lau stated many people do not have disposable income to spend on gas and they will need public transportation and safe routes to work.

Steve stated that people said ball fields should be added to the park in that area of the county. Also discussion about boat access at the fire station. Could have access for kayaks and canoes.

Steve stated that the meeting was targeted to property owners in the Lafayette area. It wasn't a publicly advertised meeting, other than the Elliston Citizens Group. The next meeting will be more of a community at large meeting. Keep in mind some of the folks in attendance were interested in possible increase in property values.

Possible 2<sup>nd</sup> meeting in July or August be a joint meeting in Elliston.

Mr. Miller think it works better.

**Haynes/Miller exit work session.**

## **LIAISON REPORTS**

- Board of Supervisors- Mr. Muffo intermodal facility hearing has been put off until September. Brush Mountain cell tower denied.
- Agriculture & Forestal District- Bob Miller- NA
- Blacksburg Planning Commission – Frank Lau- None

- Christiansburg Planning Commission – Bryan Rice- cell tower near the mall was approved.
- Economic Development Committee- John Tuttle- none
- Public Service Authority – Malvin Wells no report.
- Parks & Recreation- Walt Haynes no report
- Radford Planning Commission- Bob Miller new municipal building is beautiful.
- School Board- Bill Seitz- none
- Transportation Safety Committee- Malvin Wells- no meeting situation on memorial lane was handled well.
- Planning Director's Report- Steven Sandy- reminder no meeting next week.

There being no further business the meeting was adjourned at 8:55 p.m.